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EXAMINER

ROSEN, NICHOLAS D

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 09/736,554 | Applicant(s) PHAN, CUNG NGOC | |
| | Examiner Nicholas D. Rosen | Art Unit 3625 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-14 have been examined.

Claim Objections

Claims 2-5 and 9-11 are objected to because of the following informalities: In the seventh line of claim 2, "support a one of" should presumably be "support one of". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over the anonymous article, "ArsDigita Powers Nation's Leading Wine Exchange: WineAccess.com," hereinafter "ArsDigita." "ArsDigita" discloses a computer implemented system for distributing inventory data acquired from point-of-sale systems at any one of a plurality of retail systems, comprising: (b) a plurality of in-store systems for processing, storing, and communicating data (paragraphs beginning "WineAccess.com supports," and "From a seller's website"); (c) a plurality of subscriber systems for generating and processing requests for data (paragraphs beginning "WineAccess.com supports," and "From a seller's website," the subscriber systems not

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being expressly disclosed, but implied by the ability of consumers/members to access a Web site); and (d) a host system, operably coupled to the in-store systems and the subscriber systems, for processing, storing, and communicating data between the plurality of subscriber systems and the plurality of in-store systems (paragraphs beginning "WineAccess.com supports," and "From a seller's website," the host system being implied by the disclosure of a web site being hosted).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over "ArsDigita" as applied to claim 1 above, and further in view of the Microsoft Press Computer Dictionary. From the disclosures of "ArsDigita" regarding store Web sites, personal Web pages, and Wineaccess.com (paragraphs beginning "WineAccess.com supports," and "From a seller's website"), and the inherent properties of Web sites, the in-store systems, the subscriber systems, and the host system must be coupled to one another through a communication network (presumably the World Wide Web), configured to transmit and receive data among the in-store systems, the subscriber systems, and the host system. "ArsDigita" does not expressly disclose supporting a transmission control protocol/Internet protocol (TCP/IP) and hypertext transfer protocol (http), but the Microsoft Press Computer Dictionary teaches that the Internet supports TCP/IP and HTTP (definition of HTTP, page 238; definition of TCP/IP, page 462). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the communication network support tcp/ip, for the obvious advantage of being able to use the Web, as disclosed by "ArsDigita."

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Claims 3, 4, 5, 9, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over "ArsDigita" and the Microsoft Press Computer Dictionary as applied to claim 2 above, and further in view of the official notice. As per claim 3, "ArsDigita" discloses that the in-store systems further comprise point-of sale devices used to process sales transactions and generate sales transaction data and generate inventory data at a place of business of a merchant (paragraph beginning, "WineAccess.com supports"); the same paragraph implies an in-store communicator used to transmit and receive data in substantially real-time through the communication network, and a memory database used to store inventory data (from the disclosure of building each store's Web site, using the store's own point-of-sale system to automatically update and market that store's inventory). "ArsDigita" does not expressly disclose storing the sales transaction data, but the sales transaction data would have to be stored, at least temporarily, in the course of updating the inventory. "ArsDigita" does not expressly disclose a memory database storing merchant identification data, but official notice is taken that it is well known for commercial Web sites to identify the merchants whose Web sites they are; therefore, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the memory database to store merchant identification data, for the obvious advantage of identifying the merchant on the Web site, and letting customers know from whom they were buying, etc.

As per claim 4, "ArsDigita" does not expressly disclose a browser component, but the Microsoft Press Computer Dictionary teaches that Web browsers are well known

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(definition of "Web browser," page 505). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the system to comprise a browser component, to enable consumers to view store inventory and other information, as disclosed in "ArsDigita."

Likewise, "ArsDigita" does not expressly disclose a virtual store server usable to access merchant inventory data, but does disclose a Web site for accessing updated inventory data and shopping for wines, and further discloses that members have personal Web pages (paragraphs beginning "WineAccess.com supports," and "From a seller's website"); also, the paragraph beginning, "Transaction: enables e-commerce beyond simple transaction processing" implies that simple transaction processing in e-commerce is well known and carried out, so that online sales of goods or services offered for sale by a given merchant are processed. The Microsoft Press Computer Dictionary teaches servers, (page 430, definition of "server," sense 2) enabling (inter alia) Web sites and Web pages to function; hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for each subscriber system to comprise a virtual store server, for the obvious advantage of enabling the subscriber system to access inventory data, etc., as disclosed.

As per claim 5, "ArsDigita" discloses that the host matches the consumer with a local retailer screened for wine knowledge, customer service, and selection (paragraph beginning "Store Finder:"), implying a database of merchant identification data and inventory data, a host system communicator to receive and transmit data between a plurality of in-store systems and a plurality of subscriber systems (refer again to

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paragraphs beginning "WineAccess.com supports," and "From a seller's website") and a data distributor to process data requests from the subscriber systems; referring the customer to a particular retailer's Web site, as disclosed in the paragraph beginning "Wineaccess.com supports," implies storing merchant network address data, as well as teaching automatically updating the store's inventory on the store's Web site.

"ArsDigita" does not expressly disclose that the communicator receives and transmits data in substantially real-time, but official notice is taken that it is well known for Web servers to receive and transmit data in substantially real-time. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the communicator to receive and transmit data in substantially real-time, for the obvious advantage of accurately informing of stores' current inventories of products to be marketed, and other relevant information.

As per claim 9, referring the customer to a particular retailer's Web site, as disclosed in the paragraph of "ArsDigita" beginning "Wineaccess.com supports," implies storing merchant network address data, as noted above in regard to claim 5.

As per claim 10, "ArsDigita" discloses that the host system is configured to communicate with the in-store systems on behalf of the subscriber systems (paragraphs beginning "WineAccess.com supports," "From a seller's website," "Store Finder:," and "Transaction:").

As per claim 11, "ArsDigita" discloses that the host matches the consumer with a local retailer screened for wine knowledge, customer service, and selection (paragraph beginning "Store Finder:"), implying that the host possesses selection information, such

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as the inventory information updated from the store's in-store POS system (paragraph beginning "WineAccess.com supports"); furthermore, if the store Web sites which WineAccess.com custom builds are accessed through the host site of WineAccess.com, inventory and other data are forwarded to the subscriber system at once or later from the host system. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to send inventory data from the in-store systems to the host system, the host system configured to either forward the inventory data to the subscriber system or store the inventory data in the host system for later access by the subscriber system.

Claim 6, 12, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the anonymous article, "ArsDigita Powers Nation's Leading Wine Exchange: WineAccess.com," hereinafter "ArsDigita." As per claim 6, "ArsDigita" discloses a method for processing and distributing inventory data through a communication method, comprising: maintaining and updating inventory data (paragraph beginning "WineAccess.com supports"), and matching a consumer with a local retailer screened for wine knowledge, customer service, and selection (paragraph beginning "Store Finder."), implying a database of merchant identification data and inventory data, and transmitting data from an in-store system to a host system over the communication network; as well as indexing and storing the current inventory, merchant identification data, and merchant network address data so that it can be matched (paragraphs beginning "WineAccess.com supports," and "From a seller's website," as

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well as "Store Finder:"). Additionally, "ArsDigita" discloses access to a database of over 250,00 wines, and enabling customers to see what items are currently in stock, and shop for "top rated" wines (ibid.), implying processing requests for inventory data with a data distributor in the host system using said data in response to receiving a request for inventory data from a subscriber system.

As per claims 12, 13, and 14, they are closely parallel to claims 9, 10, and 11, respectively, and rejected on the same grounds set forth above for those claims.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over "ArsDigita" as applied to claim 6 above, and further in view of official notice. As per claim 7, "ArsDigita" does not disclose using the indexed and stored merchant network address data to initiate communication between the host system and the in-store system to retrieve inventory data when a request is made by a subscriber system, but official notice is taken that it is well known use stored network address data (e.g., URL's) to initiate communication with a remote computer, and retrieve data. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to use the indexed and stored merchant network address data to initiate communication between the host system and the in-store system to retrieve inventory data when a request was made by a subscriber system, for the obvious advantage of readily obtaining up-to-date information on retailers' available selections.

As per claim 8, "ArsDigita" discloses a communication connection from the in-store system to the host system (paragraphs beginning "WineAccess.com supports,"

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and "From a seller's website," as well as "Store Finder."); "ArsDigita" discloses the in-store system updating current inventory data on a Web site (paragraph beginning "WineAccess.com supports"); and "ArsDigita" implies storing the data by the host, as set forth in the rejection of claim 6 above, which implies triggering the in-store system to transmit current inventory data and merchant identification data. "ArsDigita" does not disclose triggering the in-store system to transmit merchant network address data, but official notice is taken that it is well known to request current identification or address data. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do, for the obvious advantage of maintaining up-to-date records of a merchant's network address, for contact at need.

Response to Arguments

Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jammes et al. (U.S. Patent 6,484,149) disclose systems and method for viewing product information, and methods for generating Web pages. Alnwick (U.S. Patent 6,922,676) discloses a method and system for ordering items over the Internet. Nowers et al. (U.S. Patent Application Publication 2003/0033205) disclose a method and system for facilitating fulfillment of electronic commercial transactions.

Hosey et al. (WO 00/70515-A1) disclose a computer method and apparatus enabling wholesale commerce.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas D. Rosen
NICHOLAS D. ROSEN
PRIMARY EXAMINER

October 5, 2005